

language says, when the trial...when you get done with the trial, the judge can call everybody back together and say, the defendants delayed, I am going to add prejudgment interest to the defendants, or the plaintiffs delayed and I am going to charge them some costs for their delay. Wrote up that language, offered it to the trial attorneys. The trial attorneys turned it down. Been some negotiation on both sides, been offers on both sides which I have not heard mentioned so far this afternoon. The insurance company compromise was after trial the judge says there was delay on the defendants, they pay prejudgment interest for that period of delay, or the plaintiffs delayed, they have some costs assessed against them. That provision was turned down by the trial attorneys. The trial attorneys have two rationales for the bill. One, the defendants' delay and when they delay there is an advantage to them because of the delay. And, secondly, that to be true to the theory of plaintiff recovery, to make somebody whole, you have to go back to the time of injury and take an interest factor for the ultimate recovery so that the time value of money does not slip away from the plaintiff. I have some sympathy for the latter of the two. I have no sympathy with the first one because there is no truth in the committee record, on the floor of this Legislature or in the negotiations discussion that there is a pattern of delay by defendants, that there is a pattern of delay by insurance companies, if you will. Nobody proved up. With respect then to the notion that insurance companies make a habit and practice delay for a strategic reason, the evidence isn't there to make that conclusion. Now with respect to the plaintiff theory, I do have some sympathy. I, too, think it is true that if I have an injury today and I pay my doctor twenty bucks to fix my finger and a year from today I get my twenty bucks back from the insurance company, I really don't have \$20.00 dollars worth of buying power. I have got \$19.50 of buying power, perhaps, but I don't have my \$20.00 that I gave to the doctor. With respect to that kind of a damage, I have a lot of sympathy, the out of pocket expenses that a plaintiff incurs for which there is a delayed recovery. What am I going to do on this amendment? I am going to vote for this amendment and I am going to vote to advance 157. But I can tell you that I do not subscribe to the entire range of the application of 157.

SPEAKER NICHOL: One minute.